

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) CASE NO. 8:04CR460  
 )  
 Plaintiff, ) ) MEMORANDUM  
 ) AND ORDER  
 vs. )  
 )  
 ADAN RUBIO, )  
 )  
 Defendant. )

This matter is before the Court on a Report and Recommendation (Filing No. 39) of a Magistrate Judge recommending that I accept the Defendant's plea of guilty. There are no objections to the Report and Recommendation. Pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 11.2(d), the Court has conducted a de novo review of the record.

The Court notes that the applicable period of supervised release is not less than four years. 21 U.S.C. § 841(b)(1)(B).

IT IS ORDERED:

1. The Report and Recommendation (Filing No. 39) is adopted;
2. The Defendant is found guilty. The plea is accepted. The Court finds that the plea of guilty is knowing, intelligent, voluntary, and that a factual basis exists for the plea;
3. I defer acceptance of the plea agreement until the time of sentencing pursuant to Federal Rule of Criminal Procedure 11(c)(3). Unless otherwise stated at the time of sentencing, the plea agreement will be deemed accepted upon the pronouncement of the judgment and sentence; and

4. This case shall proceed to sentencing.

DATED this 31<sup>st</sup> day of August, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge